

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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JAMES G. PAULSEN, Regional Director of	:	
Region 29 of the National Labor Relations Board	:	
for and on behalf of the NATIONAL LABOR	:	Case No. 16-3877, 17-8
RELATIONS BOARD,	:	
	:	
Plaintiff-Appellee,	:	
	:	
v.	:	
	:	
PRIMEFLIGHT AVIATION SERVICES, INC.,	:	
	:	
Defendant-Appellant.	:	

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**APPELLANT-CROSS-APPELLEE PRIMEFLIGHT AVIATION SERVICES, INC.’S  
RESPONSE IN OPPOSITION TO MOTION FOR LEAVE  
TO PARTICIPATE AT ORAL ARGUMENT**

Appellant-Cross-Appellee, PrimeFlight Aviation Services, Inc. (“PrimeFlight”), by counsel, respectfully opposes the Motion of Amicus Curiae Service Employees International Union, Local 32BJ for Leave to Participate at Oral Argument. “An amicus curiae may participate in oral argument only with the court’s permission.” Fed. R. App. P. 29(a)(8). PrimeFlight respectfully requests that the Court deny permission in this instance.

“Appearance as an amicus . . . normally does not allow oral argument and never allows an appeal.” *Pittston Stevedoring Corp. v. Dellaventura*, 544 F.2d 35, 42 (2d Cir. 1976), *aff’d sub nom. Ne. Marine Terminal Co. v. Caputo*, 432 U.S. 249, 97 S. Ct. 2348, 53 L. Ed. 2d 320 (1977). This case should not be the exception to the rule.

Service Employees International Union, Local 32BJ (“Local 32BJ”) says it will “supplement the position of the Regional Director” of the National Labor Relations Board. The Regional Director represents the National Labor Relations Board’s position that PrimeFlight

unlawfully failed to recognize the Union. As evidenced by its brief, Local 32BJ's position is consistent with the Regional Director's. Local 32BJ's interests are therefore adequately represented by the Regional Director. *See, e.g., United States v. Caldwell*, 404 U.S. 815, 92 S. Ct. 40, 30 L. Ed. 2d 44 (1971) (denying the Washington Post Company's and the New York Times' motions for leave to participate in oral argument in case involving order to hold New York Times reporter in contempt). To the extent the Union might attempt to offer any substantive arguments that have not already been presented by the Regional Director, those arguments would be waived in any event.

Local 32BJ's participation in oral argument would be duplicative. It would not assist the Court in rendering its decision. Appellant-Cross-Appellee, PrimeFlight Aviation Services, Inc. requests that the Motion of Amicus Curiae Service Employees International Union, Local 32BJ for Leave to Participate at Oral Argument be denied.

OGLETREE, DEAKINS, NASH,  
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**CERTIFICATE OF SERVICE**

I certify that on this 9th day of June, 2017, I caused the foregoing Response to be filed electronically with the Clerk of the Court using the CM/ECF System, thereby serving all counsel.

s/Christopher C. Murray

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